

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PETER BISTRAN,  
Plaintiff,

v.

WARDEN TROY LEVI, *et al.*,  
Defendants.

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CIVIL ACTION NO. 08-3010

**FILED**

**MAR - 6 2018**

**ORDER**

KATE BARKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

AND NOW, this 6th day of March 2018, upon consideration of Defendants' Joint Motion for Summary Judgment [Doc. No. 197], the Motion to Dismiss for Lack of Jurisdiction and, in the Alternative, for Summary Judgment Filed by the United States [Doc. No. 198], the responses and replies thereto, and in accordance with the Memorandum Opinion issued this day, it is hereby **ORDERED** that:

1. Defendants' Joint Motion for Summary Judgment [Doc. No. 197] is **GRANTED IN PART AND DENIED IN PART** as follows:
  - a. Summary Judgment is **GRANTED IN PART AND DENIED IN PART** with respect to Count I (Fifth Amendment Substantive Due Process Failure to Protect). Summary Judgment is **GRANTED** with respect to Defendants Brown, Blackman, Garraway, Knox, and White regarding Plaintiff's claim that they failed to protect him from the Northington attack. Summary Judgment is **DENIED** with respect to the Defendants Bergos, Bowns, Gibbs, Jezior, Levi, McLaughlin, Robinson, and Rodgers on this claim. Summary Judgment is **GRANTED** with respect to the claim that Defendant Jezior was deliberately indifferent to Plaintiff's safety during the Northington attack.

- b. Summary Judgment is **GRANTED IN PART AND DENIED IN PART** with respect to Count III (Fifth Amendment Substantive Due Process Punitive Detention). Summary Judgment is **GRANTED** on this claim regarding Plaintiff's first and second periods of confinement in the SHU. Summary Judgment is **DENIED** with respect to only Defendants Jezior and Levi regarding Plaintiff's fourth period of confinement in the SHU.
  - c. Summary Judgment is **GRANTED** with respect to Count V (Fifth Amendment Procedural Due Process).
  - d. Summary Judgment is **DENIED** with respect to Count X (First Amendment Retaliation).
2. The Motion to Dismiss for Lack of Jurisdiction, and, in the Alternative, for Summary Judgment Filed by the United States [Doc. No. 198] is **GRANTED IN PART AND DENIED IN PART** as follows:
- a. Summary Judgment is **GRANTED** as to Count XV.
  - b. Summary Judgment is **DENIED** as to Count XVI as to the allegation that the prison officials were negligent in failing to collect the razor issued to Taylor.

BY THE COURT:

  
CYNTHIA M. RUFÉ, J.